

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMAR LOTT,	§
	§ No. 521, 2009
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0811010440
	§
Plaintiff Below-	§
Appellee.	§

Submitted: January 27, 2010  
Decided: February 12, 2010

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

**ORDER**

This 12th day of February 2010, upon consideration of the appellant’s brief filed pursuant to Supreme Court Rule 26(c), his attorney’s motion to withdraw, and the State’s response thereto, it appears to the Court that:

(1) On August 28, 2009, the defendant-appellant, Jamar Lott, was found to have committed a violation of probation (“VOP”) in connection with his probationary sentence for Aggravated Menacing.<sup>1</sup> He was re-sentenced to five years incarceration at Level V, to be suspended after thirty-six days for four years, eleven months at Level IV Crest, in turn to be

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<sup>1</sup> Lott originally was sentenced to five years incarceration at Level V, to be suspended for eighteen months at Level III probation.

suspended after successful completion of Crest for eighteen months at Level III Crest Aftercare. This is Lott's direct appeal from his VOP sentence.

(2) Lott's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Lott's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Lott's attorney informed him of the provisions of Rule 26(c) and provided Lott with a copy of the motion to withdraw and the accompanying brief. Lott also was informed of his right to supplement his attorney's presentation. Lott has not raised any issues for this Court's consideration. The State has responded to the position taken by Lott's counsel and has moved to affirm the Superior Court's judgment.

(3) The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: (a) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (b) this Court must conduct its own review of the record and determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.<sup>2</sup>

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<sup>2</sup> *Person v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

(4) This Court has reviewed the record carefully and has concluded that Lott's appeal is wholly without merit and devoid of any arguably appealable issues. We also are satisfied that Lott's counsel has made a conscientious effort to examine the record and the law and has properly determined that Lott could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Randy J. Holland  
Justice